

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

ELIZABETH TRAYNOR,)
)
Plaintiff,)
)
)
v.)
)
DAVY LIU d/b/a DAVY LIU STUDIO)
GALLERY,)
)
Defendant.)

CIVIL ACTION NO. 06-441-SLR

**PLAINTIFF ELIZABETH TRAYNOR'S MOTION TO STRIKE DEFENDANT'S
BRIEF IN SUPPORT OF HIS MOTION FOR A PROTECTIVE ORDER**

Plaintiff Elizabeth Traynor (hereinafter "Plaintiff") hereby moves to strike from consideration Defendant Davy Liu's (hereinafter "Defendant") Brief in support of his Motion for a Protective Order. In support of this motion, the Plaintiff states as follows:

1. Defendant filed a Motion for a Protective Order on April 5, 2007 to request that either Plaintiff be required to pay for Defendant's counsel's travel expenses to California for Defendant's deposition, or Plaintiff be required to have the deposition via video conference, with counsel for both sides remaining in Delaware. D.I. 38.

2. On April 19, 2007, Plaintiff filed a timely answering brief opposing Defendant's Motion. D.I. 39.

3. On May 4, 2007, Defendant filed a brief in support of his Motion for a Protective Order. D.I. 40. This brief was a reply brief filed more than five (5) business days after the answering brief was filed and served.

4. Delaware Local Rule 7.1.2(a)(3) allows for filing of a reply brief no later than five (5) days after service and filing of the answering brief. Federal Rule of Civil Procedure 6(e) allows for the addition of three days onto this period of time for certain

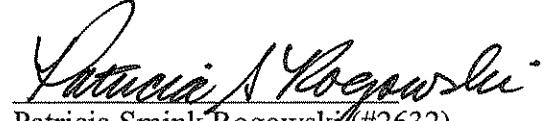
forms of service. Federal Rule 6(a) negates intermediate weekends in the computation of time. Taking these three rules in consideration, Defendant's reply brief should have been filed no later than Monday, April 30, 2007.

5. Defendant's counsel did not seek leave of this Court to file the reply brief outside of the local Rule deadline. Defendant's counsel did not contact Plaintiff's counsel to propose an extension of time or a stipulation to extend time.

6. This blatant disregard of the rules of this Court is yet another in a series of steps by Defendant to delay Plaintiff in her attempts to resolve this matter efficiently.

WHEREFORE, for the reasons described above, Plaintiff respectfully requests that the Court strike Defendant's brief in support of his Motion for a Protective Order from consideration. D.I. 40.

Respectfully Submitted,



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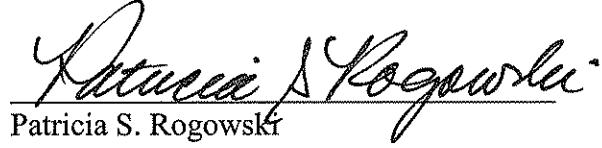
OF COUNSEL

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CERTIFICATE OF SERVICE

I, Patricia S. Rogowski, hereby certify that on this 7th day of May, 2007, electronically filed **PLAINTIFF ELIZABETH TRAYNOR'S MOTION TO STRIKE DEFENDANT'S BRIEF IN SUPPORT OF HIS MOTION FOR A PROTECTIVE ORDER** with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 7.1.1

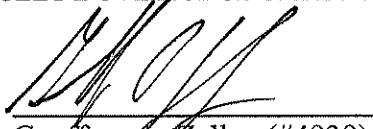
I, Geoffrey A. Zelley, an attorney for Plaintiff Elizabeth Traynor ("Plaintiff"), hereby certify that I placed a phone call to counsel for Defendant Davy Liu ("Defendant") and left a voice message on May 4, 2007, in an effort to resolve this dispute. I placed a second call on May 7, 2007. I hereby certify that I was not able to reach agreement with counsel on the matters set forth in the Motion, necessitating the filing of the Motion.

Respectfully submitted,

Dated: May 7, 2007

CONNOLLY BOVE LODGE & HUTZ LLP

By:



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